IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

MONDAY, THE 6TH AUGUST 2007 / 15TH SRAVANA 1929

Crl.Rev.Pet.No. 3060 of 2005()

CRA.445/2002 of I ADDL. SESSIONS COURT, PALAKKAD
ST.841/1999 of CHIEF JUDICIAL MAGISTRATE COURT, PALAKKAD

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REVN. PETITIONER: APPELLANT/ACCUSED

K.P.PRAMOD, S/O.K.PAUL,
SAM VILAS, PALAT ROAD, OTTAPALAM,
PALAKKAD DISTRICT.

BY ADV. SRI.SANTHEEP ANKARATH

RESPONDENTS: RESPONDENT/COMPLAINANT & STATE

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1. M/S.SREE LAKSHMI KURIES AND LOANS (P) LTD
OTTAPALAM BRANCH, PALAKKAD, REPRESENTED BY ITS
MANAGER M.HARIDASAN,

2. STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY ADV. SRI.JACOB SEBASTIAN
PUBLIC PROSECUTOR SRIL.K.S. SIVAKUMAR

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 06/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V.RAMKUMAR, J.

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Crl.R.P. No. 3060 of 2005

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Dated: 06-08-2007

O R D E R

In this Revision filed under Section 397 read with Sec. 401 Cr.P.C. the petitioner who was the accused in S.T. No. 841 of 1999 on the file of the Chief Judicial Magistrate, Palakkad, challenges the conviction entered and the sentence passed against him for an offence punishable under Sec. 138 of the Negotiable Instruments Act, 1881 (hereinafter referred to as 'the Act').

2. I heard the learned counsel for the Revision Petitioner and the learned Public Prosecutor.

3. The learned counsel appearing for the Revision Petitioner re-iterated the contentions in support of the Revision. The courts below have concurrently held that the cheque in question was drawn by the appellant in favour of the complainant on the drawee bank, that the cheque was validly presented to the bank, that it was dishonoured for reasons which fall under Section 138 of the Act, that the complainant made a demand for payment by a notice in time in accordance with clause (b) of the proviso to Section 138 of the Act and that the Revision Petitioner/accused failed to make the payment within 15 days of receipt of the statutory notice. Both the courts have considered and rejected the defence set up by the revision petitioner while entering the above finding. The said finding has been recorded on an appreciation of the oral and documentary

evidence. I do not find any error, illegality or impropriety in the finding so recorded concurrently by the courts below. The conviction was thus rightly entered against the petitioner.

4. In as much as the revision petitioner claims to have deposited the cheque amount of Rs. **24,050/- (Rupees twenty four thousand and fifty only)** pursuant to the directions of this Court, the first respondent/complainant can withdraw the amount. The petitioner having deposited the said amount it shall be treated as compensation under Section 357 (3) Cr.P.C. and the petitioner shall undergo imprisonment till rising of court instead of the simple imprisonment for two months imposed on him by the courts below. For receiving the sentence he shall appear before the trial court on **22-8-2007.**

This Revision is disposed of accordingly.

V. RAMKUMAR, JUDGE.

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